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8 ATTORNEYS FOR INTERVENOR-  
9 PLAINTIFFS

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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA**

**KELLI WARD,**

**Plaintiff,**

**vs.**

**CONSTANCE JACKSON, FELICIA  
ROTELLINI, FRED YAMASHITA,  
JAMES MC LAUGHLIN,  
JONATHAN NEZ, LUIS ALBERTO  
HEREDIA, NED NORRIS, REGINA  
ROMERO, SANDRA D. KENNEDY,  
STEPHEN ROE LEWIS, and STEVE  
GALLARDO,**

**Defendants.**

**Case No. CV 2020-015285**

**MEMORANDUM IN SUPPORT OF  
MOTION TO INTERVENE UNDER  
RULE 24**

**JUDGE RANDALL H. WARNER**

On November 24, 2020, Plaintiff initiated this action by filing their Statement of Election Contest Pursuant to A.R.S. § 16-673 in Maricopa County Superior Court. This action arises from Plaintiff's election contest based on election officials' refusal to allow legal observers to observe signature –verification constitutes “misconduct on the part of...officer[s] making or participating in a canvass for state election,” pursuant to A.R.S. § 16-672(A)(1). Without legal observation, the result of the electoral contest is fundamentally uncertain. Without examination of the signed envelopes through a court

1 ordered inspection under A.R.S. § 16-677, Plaintiff has no way of knowing whether falsely  
2 or insufficiently verified ballots were counted. Intervenor-Plaintiffs engaged in a separate  
3 investigation to discover additional election contest violations under A.R.S. § 16-672.  
4 Intervenor-Plaintiffs discovered several additional instances of disparate impact treatment  
5 of electors in areas where private corporate money was not made available to election  
6 clerks. In addition, Intervenor-Plaintiffs engaged in a statistical analysis that determined  
7 Arizona's election officials did not enforce state law residency requirements on voters who  
8 changed addresses, moved out of state, or double voted before the November 3, 2020  
9 election. *See Matthew Braynard Expert Report. See also, Qianying Jennie Zhang Expert*  
10 *Report.* As detailed in these expert reports, there is a 99% confidence interval that  
11 between 214,526 and 243,830 of the absentee ballots the State issued were not requested  
12 by an eligible State voter. In other words, the State issued at least 214,526 ballots to  
13 persons not eligible to cast a vote. Moreover, of the 518,560 persons the State identified as  
14 having requested an absentee ballot and not returning such ballot, and there is a 99%  
15 confidence interval that at least 131,092 of the absentee ballots the State issued and did not  
16 count were returned to the State by an eligible State voter. As a result, the State's own  
17 data confirms that the illegal votes counted and legal votes not counted are over 300,000,  
18 far exceeding the 10,457 margin in the Presidential contest.

19 Under Arizona law, Rule 24(a) provides that anyone shall be permitted to intervene  
20 in an action:

21 (1)[W]hen a statute confers an unconditional right to intervene; or (2)  
22 when the applicant claims an interest relating to the property or  
23 transaction which is the subject of the action and the applicant is so  
24 situated that the disposition of the action may as a practical matter  
25 impair or impede the applicant's ability to protect that interest, unless  
26 the applicant's interest is adequately represented by existing parties.

1 See also, *William Z. v. Ariz. Dep't of Econ. Sec.*, 192 Ariz. 385, 387, ¶ 8, 965  
2 P.2d 1224, 1226 (App.1998).

3 Furthermore, Rule 24 is remedial and should be construed liberally in order to assist  
4 parties seeking to obtain justice in protecting their rights. *Mitchell v. City of Nogales*, 83  
5 Ariz. 328, 333, 320 P.2d 955, 958 (1958). However, a prospective intervenor must have  
6 such an interest in the case that the judgment would have a direct legal effect upon his or  
7 her rights and not merely a possible or contingent effect. *Morris v. Sw. Sav. & Loan Ass'n*,  
8 9 Ariz. App. 65, 68, 449 P.2d 301, 304 (1969) (citing *Miller v. City of Phoenix*, 51 Ariz.  
9 254, 75 P.2d 1033 (1938)). *Dowling v. Stapley*, 221 Ariz. 251, 270, 211 P.3d 1235, 1254  
10 (Ct. App. 2009).

11 Based on the facts mentioned above, Intervenor-Plaintiffs move to intervene in this  
12 case as a matter of right under Rule for the Superior Courts of Arizona 24(a) because  
13 Arizona election officials' material violations of Arizona election law violated the voters'  
14 due process and equal protection rights under the state constitution and placed the results  
15 of a close Presidential election in Arizona in doubt. Without relief in this case, it will be  
16 too late for Intervenor-Plaintiffs.

17 Even if the Court fails to grant intervention as a matter of right, Intervenor-Plaintiffs  
18 should still be granted a permissive intervention under Rule 24(b) because Intervenor-  
19 Plaintiffs satisfy Rule 24(b)(1)(B), which states:

20 ...On timely motion, the court may permit anyone to intervene who:

21 ... (B) has a claim or defense that shares with the main action a  
22 common question of law or fact.

23 Courts must first decide whether Rule 24(b)(1) or (2) have been satisfied before  
24 granting permissive intervention. *Bechtel v. Rose*, 150 Ariz. 68, 72 (Ariz. 1986).  
25 However, because courts construe Rule 24 liberally, "the intervenor-by-permission does  
26 not even have to be a person who would have been a proper party at the beginning of the  
27 suit...." *Id.* (citation omitted); see *Mitchell*, 83 Ariz. at 333, 320 P.2d at 958 (holding trial  
28 court denying appellant right to intervene was not abuse of discretion because Rule 24

1 should be construed as assisting parties in obtaining justice and protecting their rights).  
2 *Dowling v. Stapley*, 221 Ariz. 251, 272 (Ct. App. 2009).

3 Intervenor-Plaintiffs timely filed this motion. Intervenor-Plaintiffs are moving to  
4 intervene within three business days of Plaintiff's filing of the Election Contest with this  
5 Court. Moreover, at this early stage in the proceedings, the court has only granted a request  
6 for discovery, so Intervenor-Plaintiffs' intervention will not prejudice the original parties  
7 in any way whatsoever.

8 Second, Intervenor-Plaintiffs also discovered election official misconduct under  
9 A.R.S. § 16-672 (A) (1, 4, & 5). Since Arizona certified their election canvass on  
10 November 30, 2020, Intervenor-Plaintiffs have very little time to defend their rights in an  
11 election contest. Since Arizona courts have construed Rule 24 liberally, and since  
12 Intervenor-Plaintiffs share a common question of law and fact, their motion should be  
13 granted.

14 Whether the Court grants intervention under Arizona Rules of Civil Procedure for  
15 the Superior Court 24(a) or 24(b), Intervenor-Plaintiffs seek to intervene in this action so  
16 that they may be heard in all future proceedings in this case. Consequently, Intervenor-  
17 Plaintiffs request this motion be adjudicated before any further proceedings.

18 Intervenor-Plaintiffs, James Stevenson, Baron Benham, Lynie Stone, and Jessica  
19 Chambers respectfully request that (a) the Court set this Motion to Intervene for hearing at  
20 or before any further proceedings and (b) grant this Motion to Intervene and enter an order  
21 joining Intervenor-Plaintiffs to this action as additional Plaintiffs. Proposed Intervenor-  
22 Plaintiffs, James Stevenson, Baron Benham, Lynie Stone, and Jessica Chambers, by and  
23 through their counsel, hereby move the Court in accordance with Arizona Rule of Civil  
24 Procedure for the Superior Courts 24(a) to intervene in this action as additional Plaintiffs.  
25 In support of this motion, Proposed Intervenor-Plaintiffs state as follows:

- 26 1. On November 24, 2020, Plaintiff initiated this action by filing their Statement  
27 of Election Contest Pursuant to A.R.S. § 16-673 in Maricopa County Superior  
28 Court.

- 1 2. This action arises from Plaintiff’s election contest based on election officials’  
2 refusal to allow legal observers to observe signature –verification constitutes  
3 “misconduct on the part of...officer[s] making or participating in a canvass  
4 for state election,” pursuant to A.R.S. § 16-672(A)(1). Without legal  
5 observation, the result of the electoral contest is fundamentally uncertain.
- 6 3. Without examination of the signed envelopes through a court ordered  
7 inspection under A.R.S. § 16-677, Plaintiff has no way of knowing whether  
8 falsely or insufficiently verified ballots were counted.
- 9 4. Intervenor-Plaintiffs engaged in a separate investigation to discover additional  
10 election contest violations under A.R.S. § 16-672. Intervenor-Plaintiffs  
11 discovered several additional instances of disparate impact treatment of  
12 electors in areas where private corporate money was not made available to  
13 election clerks.
- 14 5. In addition, Intervenor-Plaintiffs engaged in a statistical analysis that determined  
15 Arizona’s election officials did not enforce state law residency requirements on  
16 voters who changed addresses, moved out of state, or double voted before the  
17 November 3, 2020 election. Further, numerous requested absentee ballots were  
18 requested from election officials that were not requested by the actual named person  
19 on the ballot.
- 20 6. The government’s data confirms the illegal votes counted and legal votes not counted  
21 are over 300,000, far exceeding the 10,457 margin in the Presidential contest.
- 22 7. Under Arizona law, Rule 24(a) provides that anyone shall be permitted to intervene  
23 in an action:  
24 (1)[W]hen a statute confers an unconditional right to intervene; or (2)  
25 when the applicant claims an interest relating to the property or  
26 transaction which is the subject of the action and the applicant is so  
27 situated that the disposition of the action may as a practical matter  
28

1       impair or impede the applicant's ability to protect that interest, unless  
2       the applicant's interest is adequately represented by existing parties.

3       *See also William Z. v. Ariz. Dep't of Econ. Sec.*, 192 Ariz. 385, 387, ¶ 8, 965  
4       P.2d 1224, 1226 (App.1998).

5       8.       Additional grounds and reasons are set forth in the separate memorandum  
6       supporting this motion.

7       9.       WHEREFORE, Intervenor-Plaintiffs, James Stevenson, Baron Benham,  
8       Lynie Stone, and Jessica Chambers respectfully request that (a) the Court set  
9       this Motion to Intervene for hearing at or before any further proceedings and  
10       (b) grant this Motion to Intervene and enter an order joining Intervenor-  
11       Plaintiffs to this action as additional Plaintiffs.

12       **RESPECTFULLY SUBMITTED** this 2<sup>nd</sup> day of December, 2020

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